

**CITY OF WESTMINSTER, MARYLAND
MAYOR AND COMMON COUNCIL MEETING
MAY 23, 2011**

QUORUM:

A meeting of the Mayor and Common Council was held in the Council Chambers at City Hall, 1838 Emerald Hill Lane, Westminster, Maryland on the evening of May 23, 2011, at 7:00 P.M. Mayor Utz; Council President Halstad; Council Members Chiavacci, Frazier, Wack and Whitson; City Administrator and Acting City Clerk Wolf, Acting City Treasurer Ehlers; Chief of Police Spaulding, Director of Planning, Zoning, and Development Beyard, Director of Public Works Glass, and Director of Recreation and Parks Schroers; and City Attorney Levan were present.

Mayor Utz presented former councilwoman Suzanne Albert with a Certificate of Appreciation and a gift from the City of Westminster. Mrs. Albert was elected to the Westminster Common Council on May 5, 1995 and served sixteen consecutive years as a council member, as well as President Pro Tempore.

Mrs. Albert stated that she appreciated all the assistance that she received from the administration, directors, and all the staff that made her job easier.

Mayor Utz then presented former councilman Gregory Pecoraro with a Certificate of Appreciation from the City of Westminster. He noted that Mr. Pecoraro was first appointed to the Common Council on November 28, 1994 and served until January 13, 2003. In June 2005, he was again appointed to the council and served an additional six years.

Mr. Pecoraro thanked everyone for their hard work, stating that he enjoyed serving on the Common Council and is very proud of what they have done for the citizens of Westminster over the years. He added that he is looking forward to working with the City again as a citizen.

Mayor Utz then recognized the Director of Public Works, Jeff Glass, who has served the City of Westminster for thirty years. He stated that Mr. Glass started with the City as an Operator I on May 25, 1981. Mr. Glass has held the following positions throughout the years: Operator I, Operator II, Assistant Superintendent, Superintendent, Utility Manager, Assistant Director of Streets and Utilities, Deputy Director of Public Works, Acting Director of Planning and Public Works, and Director of Public Works. Mayor Utz thanked Mr. Glass for all he has done and will continue to do for the City. He also recognized two additional employees who have already reached their thirty year milestones: Wayne Reifsnider (32 years) and Thomas P. Owens (35 years).

Students from the U.S. Army Advanced Leadership Course Class 25V 001-11 from the Non-Commissioned Officers Academy of Fort Meade presented their multimedia projects entitled "A Week in Westminster" to the Mayor and Common Council.

Mayor Utz conducted the public hearing on Zoning Text Amendment No. ZTA 11-2 to permit funeral homes and mortuaries as a special exception use in the City's I-R Restricted Industrial Zone. He opened the hearing at 7:36 pm. Mr. Beyard informed the Mayor and Common Council that this amendment was filed by the owners of Myers-Durboraw Funeral Home. He stated that they are interested in relocating their business to a site in an industrial park. He explained that in City's I-R zone, this type of business is neither a permitted use nor a special exception use; therefore, the code would need to be amended. He added that all of the businesses currently in the I-R zone are special exception uses. Mr. Beyard explained that the request was made to permit funeral homes and mortuaries as a special exception use which would mean that if approved, there would be an additional hearing with the Board of Zoning Appeals.

William B. Dulany of Dulany, Leahy & Curtis, LLP on 127 East Main Street was in attendance representing Myers-Durboraw Funeral Home. He reiterated that this amendment would allow the special exception for a funeral home in an industrial district. He stated that they feel that this would be a good location for the funeral home.

Mr. Whitson inquired as to why they felt that this area would be an ideal place for the business.

Mr. Dulany stated that there will be easy and convenient parking and they feel the community and users will like it as well.

Mr. Chiavacci questioned what their intentions were with the facility currently on Willis Street.

Justin Durboraw of Myers-Durboraw Funeral Home at 91 Willis Street stated that at this time they do not know what will happen with that location, but they plan to transition the funeral business out and hopefully find a buyer for that property. He explained that the business has been there since 1935, so this decision has not been without a lot of discussion. He stated that the handicap accessibility has always been an issue there and has worsened. Mr. Durboraw added that they have also maxed out their size and space.

Dr. Wack inquired as to whether or not this special exception use could be confined to just this property instead of the entire I-R zone.

Mr. Beyard stated that doing that would cause spot zoning. He explained that the protection with this is the special exception where there would actually be a specific case for that use, therefore needing a separate action. If the site is not appropriate, then it would likely not get approved. He also stated that if there was any change in the footprint of the building, it would also have to go to the Planning and Zoning

Commission.

With no additional comments or questions from the Common Council and the public, Mayor Utz closed the public hearing at 7:44 pm.

Mayor Utz read a Mayoral Proclamation for the 2011 Carroll County Law Enforcement Torch Run for Special Olympics on June 8, 2011. Chief Spaulding explained that representatives from all the police departments in the County, as well as several Special Olympics athletes, will be running the Special Olympics Flame of Hope from five different locations in Carroll County to McDaniel College where they will join together and run down Main Street to the Longwell Armory for a ceremony at the conclusion. He announced that Torch Run hats and t-shirts are still available for purchase at \$10.00 each and the proceeds go to support the Maryland athletes. He added that approximately \$180,000 was raised from the sales of these items last year.

MINUTES:

Upon motion of Mr. Chiavacci, seconded by Mr. Frazier and unanimously passed, the minutes of the Council meeting of May 16, 2011 were approved.

CONSENT CALENDAR:

Dr. Wack moved to approve the Consent Calendar, which consisted of the approval of the April 2011 Departmental Operating Reports. Mr. Chiavacci seconded the motion and it passed unanimously.

REPORTS FROM STANDING COMMITTEES:

Mr. Frazier recommended to the Mayor and the other members of the Common Council that changes to be made to Section 14-4 of the City Code in reference to the day and time of the municipal elections. He suggested that the day be changed from the second Monday in May to the second Tuesday in May. He explained that the day after Westminster's election, at least three other municipalities held their elections. He added that he would like to see all municipalities hold their elections on the same day in hopes to clear any confusion with citizens as to what day they can vote. Mr. Frazier also suggested changing the polling hours from 7:00 am to 7:00 pm to 7:00 am to 8:00 pm. He feels this would help citizens in case they are having problems getting home from work and give them a little more time to get home, eat dinner, then go out and vote.

President Halstad stated that he feels those issues have merit especially the changing of the hours since many people commute out of the area to work. He added that changing the day from Monday to Tuesday could help should an election judge back out over the weekend.

Mr. Chiavacci concurred with Mr. Frazier stating that with the low turnout of voters, anything that can be done to get more people out to vote is beneficial.

President Halstad inquired about the historical information as to why Westminster's elections were always on the second Monday of May.

Dr. Wack felt that it had to do coinciding with the Mayor and Common Council meetings.

Ms. Wolf stated that the current Common Council approved minutes from the previous meeting when the new council members were not in attendance. She explained that the old council should meet to take care of any unfinished council business, present any awards or recognitions, and then close it out. She added that the first order of business when the council reconvenes is the swearing in of the new council members. Ms. Wolf stated that the results from the elections would be released to the press once the results come in as opposed to announcing them at the Common Council meeting.

Having consensus from the Mayor and Common Council, President Halstad requested the City Attorney Levan move forward to put together the necessary information to make the suggested changes to the City's election day and times.

Mr. Frazier then stated he had talked to members of the community about the recent job creation tax credit that was approved; he recommended the possibility of adding a second tier to the credit. He suggested that the additional tier would have a lower threshold of 2,500 square feet of new or expanding facility, twelve employees, and the average wage in the County at the time. He feels that this would help smaller businesses come into the City since not everyone needs a 5,000 square foot facility and can employ 25 employees. He explained that the second tier could cut the tax credit in half where it would be 25% in years one and two, 20% in years three and four, and 15% in years five and six.

City Attorney Levan stated that this second tier would not be authorized by State law; therefore, a new statute would have to be passed. There are larger tax credits for bigger businesses, but there are no lower tiers.

Ms. Wolf added that the tax credit is enabling legislation with the State and they give the authority to everyone, but it is very specific. She explained that the City will give the tax credit, and then the City will ask the State to give the same tax credit or in this case, the County will ask the State.

Dr. Wack stated that State and/or the delegation might feel that since these tax credits are stretched out over a five year period, they want to grant them to businesses that are going to around in five years. He added that the mortality rates of small businesses can 80-90% in the first couple of years. He does, however, feel that it is certainly worth exploring further.

Ms. Wolf suggested that the City recommend the additional tax credit to the Legislative Committee of the Maryland Municipal League. She explained that a different approach might be to give the local jurisdictions the authorization to give tax credits however they

want and not ask the State to participate.

Mr. Chiavacci stated that most small businesses do not pay much in the way of any type of numeration to the City, except personal property taxes. He added that there is the property tax that they get, but in most cases, the smaller businesses are tenants renting their location.

Ms. Levan explained that there is a provision that was written into the ordinance that if a business is renting and it is the reason that the property owner gets the tax credit, then the landlord is required to pass that credit along.

Mayor Utz inquired as to what the City would have to do to bring this legislative initiative up to the MML.

Ms. Levan stated that if the City has a representative on the legislative committee, they can make the recommendations.

After further discussion, it was decided that the appropriate information would be collected and given to Ms. Levan to present to the MML Legislative Committee.

Mr. Chiavacci complimented Chief Spaulding and his staff for another fine job of closing a case from another recent incident in the Bishops Garth area. Chief Spaulding thanked the councilman, adding that they have a good group of hard working detectives who do an excellent job. He stated that while unfortunately they do not close every case, they do have a high closure rate.

Mr. Whitson reported that he visited with the Arts Council recently. He stated that they discussed the success of this year's Peep Show. He explained that the attendance increases almost 50% each year and they continue to receive positive feedback. He added that they are already talking about how they can improve on the event for next year.

ORDINANCES AND RESOLUTIONS:

President Halstad reiterated that this would be the final adoption for Ordinance No. 824 (Zoning Text Amendment No. ZTA 11-2) which would permit funeral homes and mortuaries as a "Special Exception Use" in the City's I-R Restricted Industrial Zone, but any particular action will have to go through the Board of Zoning Appeals. Dr. Wack moved to approve Ordinance No. 824. Mr. Chiavacci seconded the motion and it passed unanimously.

Ms. Wolf summarized that when the Mayor and Common Council adopted the City's Fiscal Policies, the parameter on the City's contracting procedures was changed from \$75,000 to \$10,000. She explained that the approval of Ordinance No. 826 would amend Chapter 36 – Procedures and Contract of the City Code to be consistent with the Fiscal Policies. She added that this will remove the finding for this year's audit report.

Upon motion of Mr. Chiavacci, seconded by Mr. Frazier and unanimously passed, Ordinance No. 826 was approved.

Mr. Beyard summarized that last year the Mayor and Common adopted a revised Chapter 119 and, in doing so, adopted the 2009 International Property Maintenance Code. He explained that an oversight left the grass height specification out of the City Code. Mr. Beyard recommended the introduction of Ordinance No. 827 which would establish the maximum height of weeds and plant growth at the City's historical height of six inches. Upon motion of Dr. Wack, seconded by Mr. Frazier, Ordinance No. 827 was introduced by a 4-1 vote, with Mr. Whitson opposed.

NEW BUSINESS:

Dr. Wack motioned pursuant to Section 10-508-A of the State Government Article of the Annotated Code of Maryland to conduct a closed meeting at the conclusion of the current meeting to consult counsel to obtain legal advice on a legal matter. Mr. Chiavacci seconded, and the motion passed unanimously.

DEPARTMENT REPORTS:

President and C.E.O. of the Westminster Fire and Hose Company No. 1 Bob Cumberland reminded the Mayor and Common Council that the Fire Department is getting ready for their major fundraising event which will take place on Thursday, May 26th at the fire hall and includes the Big Money Raffle and dinner. He added that this is also a chance to meet the City's volunteer fire services staff.

Mr. Glass thanked everyone for their efforts in putting together recognition of his thirty years of service to the City.

Mr. Schroers reported that over 250 couples attended the recent spring edition of the Mother/Son and Daddy/Daughter dances at Martin's in Westminster. He thanked the Westminster Patch for covering the Daddy/Daughter Dance and posting the pictures online. He stated that they will be hosting these events again in October. Mr. Schroers announced that the Westminster Municipal Pool will be opening on Monday, May 30th at noon for Memorial Day, but will be closed during the week until the schools close for summer break. He also reported that the 17th Annual LaxMax Lacrosse Tournament will be coming to Westminster June 10th – 12th. Finally, he announced that TownMall of Westminster is hosting a carnival hosted by Jolly Shows from June 8th – 12th at TownMall. The proceeds will benefit Jolly Shows Carnivals and the City of Westminster Recreation and Parks Department.

Mr. Ehlers reported that the audit process has begun for this year with McGladrey & Pullen, LLP in City offices for three days during the previous week. He stated that they are starting several months sooner than usual.

Chief Spaulding reported that once again, for the 12th time in fourteen years, the

Westminster Police Department has placed first in its size category in the Law Enforcement Challenge, which is a national traffic safety program. He explained that the year-long program deals with public education and the enforcement of DUI, seat belt usage, and aggressive driving.

Mr. Beyard congratulated Dr. Wack, Mr. Frazier, and Mr. Whitson on their election victories. He reported that the carnival that is being held at TownMall is the first that has been permitted under the recently adopted ordinance. He stated that the permit process was patterned after the City's process for parade permits and it worked very smoothly. He also reported that local business, Tri-County Roofing & Sheet Metal, Inc., recently broke ground on a new facility at the West Branch Trade Center on Magna Way. He added that the facility will be approximately 6,000 square feet with a possibility to expand in the future.

Mr. Halstad thanked the Department Heads for taking the time to meet with the new Council members, adding that it is very helpful to get the one-on-one time to get to know about what they do.

CITIZEN COMMENTS:

Lori Graham of 118 Pennsylvania Avenue stated that the site formerly occupied by Locust Books has been rented to the Carroll County Chamber of Commerce and if anyone is interested in Leadership Carroll Alumni Association, sponsored by the Chamber, there are still vacancies available. She reported that they had a wrap-up meeting recently for the Shop With A Cop program from Christmas. She is amazed at how many kids in the community that the program has touched. She announced that the program is doing a Back-To-School special in August where book bags and other school supplies will be provided to the kids. She added that this year's recipients will be the Boys and Girls Club of Westminster. Finally, she informed the Mayor and Common Council that there is a downtown merchants meeting being held on at 8:00 am on Tuesday, May 24th at the Westminster Library.

ADJOURN:

Council President Halstad adjourned the meeting at 8:25 PM.

Respectfully Submitted,

Elizabeth L. Fahey